

U.S. Patent Application No. 10/776,970
Amendment dated June 7, 2006
Response to Final Office Action dated January 31, 2006

REMARKS/ARGUMENTS

Reconsideration and continued examination of the above-identified application are respectfully requested.

The amendment to the claims further defines what the applicants regard as the invention. Claim 26 has been canceled. All of the remaining claims have been amended to recite "reagents" instead of "reagent set" and to recite "controlling substance" instead of "increasing compound." Furthermore, claims 22, 34, 35, and 36 have been amended to recite that the lipoprotein fraction is "contained in a biological sample." Thus, full support for this amendment can be found for example, in claim 14, and throughout the present application. Therefore, no new questions of patentability should arise nor does the amendment necessitate any further searching on part of the Examiner. Further, the amendment places the application in condition for allowance. Accordingly, no questions of new matter should arise and entry of the amendment is respectfully requested.

Rejection of claims 14 - 35 under 35 U.S.C. §112, second paragraph

At page 2 of the Office Action, the Examiner rejected claims 14-35 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner stated that the claims have been amended from "kit" claims to claims reciting a "reagent set," but the Examiner alleged that the "reagent set" is indefinite as presented because it is unclear as to what may be intended beyond a reagent or composition of some sort. The Examiner further stated that the term "set" as set forth is not standard terminology where no set is seen. For the following reasons, this rejection is respectfully traversed.

As stated in the Amendment filed April 28, 2006, the terms previously presented have

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support in the present application and would be clear to one skilled in the art. To assist the Examiner, the claims now recite "reagents," which should assist the Examiner in understanding the present invention. Further, this term is clearly supported in the present application.

Furthermore, in an interview between Examiner Gitomer and Dinh Nguyen on May 19, 2006, the Examiner did indicate in the interview that the term "reagents" would be acceptable for purposes of §112, first and second paragraphs.

The applicants and the undersigned appreciate the conversation with Examiner Gitomer, and in view of this Request for Continued Examination and the amended claims, the applicants are hopeful that the claims are now in condition for allowance.

Accordingly, for these reasons, the rejection should be withdrawn and an indication be provided that all claims are now in condition for allowance.

Should there be any remaining issues, the Examiner is encouraged to contact the undersigned by telephone.

CONCLUSION

In view of the foregoing remarks, the applicant respectfully requests the reconsideration of this application and the timely allowance of the pending claims.

If there are any fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 50-0925. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such extension is requested and should also be charged to said Deposit Account.

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Respectfully submitted,



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